

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

EARL NICHOLAS NEWTON,

Plaintiff,

v.

Civil Action No. 3:23cv148

MICHAEL BRECKON, *et. al*,

Defendants.

MEMORANDUM OPINION

Plaintiff, a Virginia prisoner proceeding *pro se* filed this action. The matter is before the Court on Plaintiff's failure to serve Defendants within the time required by Federal Rule of Civil Procedure 4(m). Rule 4(m) provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period. This subdivision (m) does not apply to service in a foreign country under Rule 4(f) or 4(j)(1).

Fed. R. Civ. P. 4(m).

Pursuant to Rule 4(m), Plaintiff had 90 days from the filing of the Complaint to serve Defendants. Here, that period commenced on August 10, 2023. More than 90 days have elapsed, and Plaintiff has not served Defendants. However, on November 8, 2023, Plaintiff mailed a Motion for Extension of Time to the Court asking for a thirty (30) day extension, or until December 10, 2023, to provide the Court with addresses and the names of the Doe Defendants. (ECF No. 12, at 1.) By Memorandum Order entered on November 20, 2023, the Court granted Plaintiff a thirty (30) days extension, or until December 20, 2023.

Because Plaintiff did not respond, by Memorandum Order entered on January 5, 2024, the Court directed Plaintiff, within twenty (20) days of the date of entry thereof, to show good cause why the action against Defendants should not be dismissed without prejudice for failing to comply with Rule 4(m).

More than twenty (20) days have elapsed, and Plaintiff has not filed a response. Accordingly, the action will be DISMISSED WITHOUT PREJUDICE.

An appropriate Order shall issue.

Date: 2/15/2024
Richmond, Virginia



M. Hannah Lauck
United States District Judge